IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6395 OF 2006

Ibrahim Isuf Lambe ... Petitioner

V/s

Abdul Rajak Abdul Mulla & anr. ... respondents

Mr. S.B. Shetye for the petitioner.

Mr. B.M. Purandare for respondent Nos. 1 & 2.

CORAM: V.C. DAGA, J.

DATED: 26TH SEPT., 2006

P.C.:

1. Rule made returnable forthwith. Mr. Purandare waives service on behalf of the respondents. Perused petition.

2. Heard finally by consent of the parties.

3. This petition is directed against the order dated 10th August, 2006 passed by the Divisional Commissioner, Konkan Division, Mumbai in Revision Application No.TNC/72/B/06. Perusal of the impugned order would show that the Divisional Commissioner has recorded a

casual and perfunctory finding that both the parties are related to each other, therefore, one cannot become the tenant of other. The proposition of law sought to be stated in the wider terms has hardly any relevance in absence of any discussion and proof of relationship between the parties.

4. The authority of the status of the Divisional Commissioner, who is elevated to the status of the Maharashtra Revenue Tribunal is expected to deal with all the contentions of the parties in depth with all seriousness; not in a casual manner as has been done in this case.

5. Considering the perfunctory nature of the order passed by the Divisional Commissioner, the same is liable to be quashed and set aside and the proceedings are liable to be remitted back to the Divisional Commissioner, Konkan Division, Mumbai, for hearing afresh.

6. Needless to mention that, if the possession is taken by the respondents under the impugned order dated 10th August, 2006, in that event, the petitioner will have to be restored with the possession of the disputed

property. It would, thus, be open for him to make a appropriate prayer to the Divisional Commissioner, who shall pass appropriate order in that behalf.

4. Needless to mention that the Divisional Commissioner is expected to dispose of the revision application as expeditiously as possible at any rate within a period of four months from the date of receipt of the copy of this order, however, subject to the restoration of possession of the property to the petitioner.

5. With the above observations, the impugned order is quashed and set aside. Petition is allowed. Rule is made absolute. No order as to costs.

Parties to act on the authenticated copy of this order.

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(V.C. DAGA, J.)